

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN HAGE,

Plaintiff,

Case No. 1:08-cv-408

v.

Hon. Robert J. Jonker

REEFER SERVICE, INC., and
JOHN VANDERWAL Individually
and Personally,

Defendants.

ORDER

Pending before the court is plaintiff's motion for sanctions (docket no. 25) and plaintiff's motion to amend the Case Management Order to extend time for discovery (docket no. 27).

Plaintiff's first motion is essentially one to compel discovery. Plaintiff seeks documents requested in Request to No. 5, plaintiff's First Request for Production of Documents, and Request No. 1 of his Second Request for Production of Documents. The time period covered by these requests has been limited by plaintiff to the one and one-half year period plaintiff was employed by defendant. For the reasons more fully stated on the record at the hearing held January 29, 2009, the motion (docket no. 25) is GRANTED as to these requests. These documents shall be produced forthwith.

Plaintiff is entitled to his reasonable expenses incurred in making his motion to compel, including attorneys fees. Rule 37(a)(5)(A), Fed.R.Civ.Proc. In the event the parties are

unable to agree upon this amount, plaintiff shall, no later than fourteen days from the date of this order, submit an affidavit together with any supporting documents in support of the amount sought. Defendant shall have ten days to respond likewise in a similar manner. The court will resolve this matter on the papers, or by scheduling a further hearing if it deems the same necessary.

Plaintiff's Motion to Amend the Case Management Order (docket no. 27) is GRANTED in part as follows: discovery is extended to permit plaintiff to promptly take the depositions of John VanderWal and John Schoonveld. Follow-up discovery is limited to documents plaintiff becomes aware of for the first time by virtue of these depositions. The depositions plaintiff was conducting on Tuesday, January 27, 2009, of other persons may be continued, with the costs allotted in the normal manner.

Plaintiff has also filed a supplemental brief to its motion to compel, seeking production of additional documents requested in its Third Request for Production of Documents (docket no. 37). This brief should have been filed as a new or amended motion to compel, and not piggybacked on a fully brief motion. In any event, for the reasons more fully stated on the record at the hearing, the court finds that the documents in the Third Request were not requested in a timely fashion and that plaintiff has failed to show good cause for amending the case management order in this regard. Rule 16(b)(4). Accordingly, to the extent plaintiff seeks additional relief by virtue of his supplemental brief, the same is DENIED.

IT IS SO ORDERED.

Dated: January 30, 2009

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge